IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.2579 OF 1989

Priyadarshini Spinning Mills Ltd.& Anr. ..Petitioners.

V/s.

Union of India & Ors. ..Respondents.

Mr.Sameer Samant i/b. Mulla & Mulla & C.B.C. for the petitioners.

Mr.S.M. Shah with Mr.P.S. Jetly for the respondents.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 2ND FEBRUARY, 2005.

P.C. :-

1. Heard the learned counsel for the petitioners and the respondents. The learned counsel for the petitioners submitted that in similar matters involving the same Notification and under similar facts and circumstances,a this Court had directed the petitioners to make an appropriate application seeking benefit of the Notification No.12/99 with regard to Autoconers imported by the petitioners.

2. In this view of the matter, we are of the opinion that the petitioners cannot be denied benefit of Notification 12/99 provided the petitioners have complied with the conditions set out in the Notification No.71/87 Cus. as amended by Notification No.63/89 and have imported Autoconers during the period from 21st April, 1989 to 31st January, 1990.

3. Accordingly, we direct the petitioners to make an application to the respondents within four weeks from today, seeking benefit of Notification No.12/99 to the Autoconers imported by the petitioners. The respondents shall dispose of the said application on merits as early as possible at any rate within eight weeks from the date of receipt of application from the petitioners. The respondents shall grant the benefit of Notification No.12/99 to the petitioners, only if the petitioners have complied with the conditions set out in Notification No. 71/87 as amended by the Notification No.63/89 and only if the import of the Autoconers is during the period 21st April, 1989 to 31st January, 1990. It is made clear that if the respondents hold that the petitioners are entitled to the benefit of Notification No.12/99, then, the petitioners will be required to pay basic customs duty at the rate of 35% along with 5% auxiliary duty payable on the said Autoconers.

4. The bank guarantee, if any, executed pursuant to the interim order of this Court shall be kept alive by the petitioners till the disposal of their application by the respondents and for a further period of eight weeks thereafter.

5. The petition is disposed of in the above terms. However, in the facts and circumstances of the case, there will be no order as to costs.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)